CITY OF MILPITAS **APPROVED**

PLANNING COMMISSION MINUTES

February 28, 2007

I. PLEDGE OF **ALLEGIANCE** Chair Williams called the meeting to order at 7:00 P.M. and led the Pledge of

Allegiance.

II.

Present: Azevedo, Ali-Santosa, Ciardella, Mandal, Sandhu, and Williams

ROLL CALL

Absent: Tabladillo

Staff:

Bejines, Hom, Ishijima, Kunsman, Lowe, Maxwell, Pio Roda and

Reliford

III. **PUBLIC FORUM** Chair Williams invited members of the audience to address the Commission on any topic not on the agenda, noting that no response is required from the staff or Commission, but that the Commission may choose to agendize the matter for a future

meeting.

Rob Means, 1421 Yellowstone, said he is concerned about global warming and flooding and encouraged the community to reduce energy waste.

IV.

February 14, 2007

APPROVAL OF MINUTES Chair Williams called for approval of the minutes of the Planning Commission meeting of February 14, 2007.

Staff had no changes.

Motion to approve the minutes of February 14, 2007.

M/S: Sandhu/Mandal

AYES: 6 NOES: 0

V.

ANNOUNCEMENTS

Felix Reliford, Principal Planner, announced that the Senior Planner position will close on Friday, March 2nd and oral interviews are scheduled for Wednesday, March 14th. He also announced that of the 89 affordable KB Home units, Milpitas residents will occupy 88 homes.

Commissioner Sandhu asked about seismic gas valves requirement in the City and asked if staff could provide an overview or progress of the new requirement. Mr. Reliford said he would provide an update at the next meeting.

Chair Williams mentioned that the residential status list on the City's website was last updated in October 2006 and asked when will be the next update. Mr. Reliford said it is updated twice a year and the next update is in April 2006.

Chair Williams asked if staff can provide an update about the construction activity on Abel Street and the construction activity in front of the new library. He also asked if staff could provide an update about the center divide between Abel and Main Street. Mr. Reliford said that staff will provide an update at the next meeting.

VI. CONFLICT OF INTEREST

Assistant City Attorney Pio Roda asked if the Commission has any personal or financial conflict of interest on tonight's agenda.

There were no Commissioners that identified a conflict of interest.

VII. APPROVAL OF AGENDA

Chair Williams called for approval of the agenda.

Staff has no changes to the agenda.

Motion to approve the agenda.

M/S: Ciardella/Azevedo

AYES: 6 NOES: 0

VIII. CONSENT CALENDAR

Chair Williams asked whether staff, the Commission, or anyone in the audience wished to remove or add any items to the consent calendar.

Commissioner Azevedo requested that staff add Item No. 5 ("S" Zone Approval Amendment No. SA2007-4 and Use Permit No. UP2006-27) to the consent calendar.

Motion to add Item No. 5 to the consent calendar.

M/S: Azevedo/Sandhu

AYES: 6 NOES: 0

Chair Williams opened the public hearing.

Jeffrey Rong, 364 Sandhurst Dr., said he lives near the shopping center and is bothered by the noise and traffic that nearby Starbucks creates. He said teenagers loiter outside during the summer time and he is concerned about the same thing happening with Jamba Juice.

Assistant City Attorney Pio Roda suggested that Item No. 5 be taken off the consent calendar to hear public testimony.

Commissioner Ali-Santosa suggested that Item No. 4 (Use Permit No. UP2004-13 and 'S" Zone Approval Amendment No. SA2004-53) be added to the consent calendar because the Telecom Commission approved it.

Motion to add Item No. 5 to the consent calendar.

M/S: Ali-Santosa/Sandhu

AYES: 6 NOES: 0

John Ohms, 1430 Clear Lake Avenue, is concerned that the antennas are too close to many residents and felt that the radiation transmitted from the antenna can cause health issues such as birth defects.

Chair Williams said that the Commission has approved over 20 telecom sites and that is why the Telecom Commission reviews the project for safety issues and aesthetics.

Motion to close the public hearing.

M/S: Azevedo/Sandhu

AYES: 6 NOES: 0

Cindy Hom, Project Planner, noted that condition no. 13 (noted below) should be a note to the applicant and not be included as a special condition.

Submitted drawings are not reviewed nor approved for fire permits and construction. These notes are provided to assist with the Fire Department permit process. (F)

Motion to approve the consent calendar on Item No. 5 with the correction.

M/S: Azevedo/Sandhu

AYES: 6 NOES: 0

*5. USE PERMIT NO. UP2004-13 AND 'S" ZONE APPROVAL AMENDMENT NO. SA2004-53: A request to install 3 telecommunication antennas within 3 flagpoles (1 antenna each) and associated ground mounted equipment located at 1818 Clear Lake Avenue. (Recommendation: Approve with Conditions)

IX. PUBLIC HEARING

1. GENERAL PLAN AMENDMENT NO. GP2007- 5, ZONE CHANGE NO. ZC2007- 7 AND ENVIRONMENTAL IMPACT ASSESSMENT NO. EA2007- 3

Cindy Maxwell, presented a request to change the General Plan designation and zoning district of 13 parcels located at 887 through 1045 South Park Victoria Drive. The properties are proposed to be redesignated from Multi-Family Medium Density Residential to Mixed Use and rezoned from One and Two Family Residential "R2-S" to Mixed Use "MXD-S". Ms. Maxwell recommended approval to City Council based on the findings in the staff report. Ms. Maxwell also pointed out additional handouts passed out to the Commission prior to tonight's meeting that included a petition signed by the residents and also written comments from people who are against the project.

Commissioner Sandhu asked who requested the application. Ms. Maxwell said that on the first page of the staff report there is a list of property owners and the City is able to pursue a zone change on behalf of the property owners. Staff has not heard anything from the property owners and there have been no objections.

Commissioner Sandhu asked if there are any rental units or owners living there. Ms. Maxwell said that these are rental units and may be owner occupied units also.

Vice Chair Mandal asked if a letter was sent to people in the neighborhood to get their feedback? Ms. Maxwell said a letter was sent to the property owners of the 13 parcels, the residents who live in the duplexes of the 13 parcels and the church next door.

Vice Chair Mandal asked if a letter was sent to property owners within 300 feet of the proposed project. Ms. Maxwell said that a public hearing notice advertising the Planning Commission and City Council meeting did go out within 300 feet of the property line letting the public know about the hearing including property owners and occupants.

Vice Chair Mandal asked if the City provides a local hearing or special meeting for residents when there is a mixed-use project. Ms. Maxwell said there is no special meeting for residents and that the meeting that is advertised is for Planning Commission and City Council meetings.

Commissioner Azevedo asked if this item is going to Council next week. Ms. Maxwell said that staff can only process general plan amendments four times a year and included this project to be combined with the Institutional Zones GPA.

Commissioner Ciardella asked if there are other places in the City where staff has done a project like this before. Ms. Maxwell pointed out the mixed-use project at the corner of Dixon Landing and Milpitas Blvd. and the Midtown Area and Transit Area Plan.

Chair Williams introduced the applicant. The applicant was not in the audience.

Chair Williams opened the public hearing.

Commissioner Ali-Santosa asked each speaker to state their name, address and proximity of their address to the project.

Mark Beal, 956 Courtland Court, lives right next to the project, said that 58 people have signed a petition against the project. Mr. Beal then read the petition to the Planning Commission and audience. **For a copy of the petition, please reference the staff file.

Jerry Epps, 1378 Mt. Shasta, lives within 60 feet of this property, said he is here to support the residents who are objecting to the project because it is wrong for Milpitas. He said that the person who recently purchased the property is a member of the City Council and more than 100 homes will be impacted. He felt that the City needs more affordable homes than commercial property. He felt the project will cause traffic, inadequate street parking, noise, litter and odors. He is not in support of the project.

Connie Beal, 956 Courtland Court, lives right next to the project, says she is concerned about the rezoning. She said the buildings are proposed to be 45 feet in height and there would not be enough parking. She is not in support of the project.

Cathy McDonald, 1408 Portola Drive, lives across the street, said that she wasn't notified about the public meeting until someone else told her about it. She is concerned about noise, litter and traffic impacts. She is against the project.

Mr. and Mrs. Chang, 964 Courtland Court, live 35 feet away are opposed to the rezoning because it will cause traffic and extra noise and loss of privacy.

Darcy Kendall, 908 Courtland Court, lives directly behind the rezone, sent a two-page e-mail opposing the project. She felt the project will be detrimental to the very quiet residential neighborhood and felt that that commercial does not belong. She felt that a commercial property would reduce the value of the neighborhood and will increase traffic problems. She is against the project.

Mr. Collins, 1457 Sonoma Drive, said he was not notified about the public hearing. He said the neighborhood is not a place for mixed use commercial and there are other places where the applicant can put her business. He is against the project.

Kathy Doray, 997 Courtland Court, lives at the end of Mt. Shasta, said she is concerned about traffic and safety of pedestrians and said there have been a number of accidents in the neighborhood. She is against the project.

Steve Moore, 1390 Mt. Shasta, lives directly behind one of the duplexes, said he is concerned about traffic. He is concerned that the commercial project would decrease his property value and is not in favor of the project.

Shirley Walk, 985 South Park Victoria, felt that the neighborhood should stay residential and not commercial. She is against the project.

Bill Ferguson, Rivera Street, Member of Sunnyhills Neighborhood Association, felt that it was inappropriate for an elected official to file an application for their benefit for personal use, and to buy property and ask the City to rezone it. He supports mixed use but not in this area. He is against the project.

John Ohms, 1430 Clearlake Avenue, said it is not right that 13 people were not notified about the rezoning. He is not in favor of the project.

Resident, 948 Courtland court, adjacent to the property, said that he objects to this project and felt that it is ridiculous because Parktown Plaza is right next-door. He would like to keep it a residential community and not add commercial. He is against the project.

Kevin Connely, 1047 Courtland Court, lives near the project, said he wasn't clear which property owners were in agreement with the proposal. He is troubled that the EIR showed no negatives impacts and pointed out that Mt. Shasta has a severe slope and that would require serious grading. He is against the project.

Paul Cashi, 925 Courtland Court, lives right across the street, said the public hearing notice looked like junk mail and there was no good explanation about the project. One thing that stood out was that the building could stand up to 45 feet and he said that would ruin his view of the hills. He is against the project.

Rob Means, 1421 Yellowstone, lives near the area, said there is already traffic in the area and changing it from residential to commercial would not be logical. He is against the project.

Maria Lemory, 2141 Bliss Avenue, does not live near the proposed change, however she objects to the rezoning because of the way the project is being handled. She is concerned that the applicant is a City Councilmember and is doing the project for her benefit. She is against the project.

Frank Rodriguez, 916 Courtland Court, lives behind the project, objects the rezoning because it is a quiet neighborhood and he doesn't want to lose the view of the hills. He is against the project.

Denny Weisgerber, 195 Casper Street, lives 4 miles of the project, felt that this project would cause a loss of residential housing and more affordable housing is needed. He felt that this would cause traffic problems. He is against the project.

Brenda Price, 989 Courtland Court, said they have lived in the area over 20 years and opposes the project.

Motion to close the public hearing.

M/S: Azevedo/Sandhu

AYES: 6 NOES: 0 Chair Williams asked the Assistant City Attorney's opinion about a council member submitting an application for a rezone. Assistant City Attorney Pio Roda said the political reform act in Government Code Section 87100 states that if a public official has a conflict of interest on an item on the agenda that they should abstain and not participate in making a decision related to that item. Staff has been told that Councilmember Giordano would abstain from the consideration of this item when it comes before City Council and that will be in line with the law and she has a legal right to apply.

Chair Williams asked staff the number of property owners that have responded. Ms. Maxwell said the only property owner who was present at the community meeting Councilmember Giordano and a representative of the Baptist church.

Commissioner Mandal asked if there was a traffic analysis done. Ms. Maxwell said that a formal traffic analysis will be completed with a future application.

Commissioner Sandhu made a **motion** to deny General Plan Amendment No. GP2007-5, Zone Change No. ZC2007-7 and Environmental Impact Assessment No. EA2007-3.

The motion died because of a lack of a second.

Motion to recommend approval to City Council for General Plan Amendment No. GP2007- 5, Zone Change No. ZC2007- 7 and Environmental Impact Assessment No. EA2007- 3 based on the findings in the staff report.

M/S: Williams/Ciardella

AYES: 5

NOES: 1 (Sandhu)

2.
GENERAL PLAN
AMENDMENT NO.
GP2007- 4, ZONE
CHANGE NO. ZC2007- 6
AND ENVIRONMENTAL
IMPACT ASSESSMENT
NO. EA2007- 2

Cindy Maxwell, Project Planner, presented a request to redesignate various sites listed in the staff report to "Public Facility" in the General Plan and rezone various sites listed in the staff report to "Institutional". Ms. Maxwell recommended approval to City Council based on the findings in the staff report.

The Commission had no questions.

Chair Williams opened the public hearing.

Richard, 1671 Rocky Mountain, said he is concerned about the rezoning and asked if this is a backdoor tactic in converting Rancho Middle Schools into one of the high schools which his family opposes due to the traffic.

Chair Williams said the City has no impact on what the school board can do and the resident should talk to the school board.

Motion to close the public hearing.

M/S: Sandhu/Azevedo

AYES: 6 NOES: 0 **Motion** to recommend approval to City Council for General Plan Amendment No. GP2007- 4, Zone Change No. ZC2007- 6 and Environmental Impact Assessment No. EA2007- 2 based on the findings in the staff report.

M/S: Azevedo/Ali-Santosa

AYES: 6 NOES: 0

3. MINOR TENTATIVE MAP NO. MI2006-5

Momo Ishijima, Project Planner, presented a request for a one-lot subdivision for condominium purposes located at 500 Yosemite Drive and 691 S. Milpitas Blvd. Mrs. Ishijima recommended approval with conditions based on the findings and special conditions noted in the staff report. Mrs. Ishijima also noted the following corrections to her staff report:

- Findings #1 of the Staff Report states, ("Existing Facilities", Interior or exterior alterations involving such things as interior partitions, plumbing and electrical conveyances.) This is corrected to state, ("Existing Facilities", Subdivision of existing industrial buildings, where no physical changes occur which are not otherwise exempt.)
- Special Conditions #8: This is corrected to state, "Prior to parcel map recordation, the developer shall obtain bond for all necessary public improvements along S. Milpitas Boulevard, Yosemite Drive and Gibraltar Drive frontage including but not limited to removal and replacement of the damaged curb, gutter, and sidewalk, the existing wheelchair ramps should be per ADA standard or must be remove and reconstructed to the ADA and City approved standards. Plans for all public improvements shall be prepared on Mylar (24"x36" sheets) with City Standard Title Block and submit a digital format of the Record Drawings (AutoCAD format is preferred) upon completion of improvements. All improvements must be in accordance with the City of Milpitas standard and specification, and all public improvements shall be constructed to the City Engineer's satisfaction and accepted by the City. (E)"

Chair Williams asked the applicant if he would like to speak and the applicant said no. Chair Williams opened the public hearing. There were no speakers from the audience. **Motion** to close the public hearing.

M/S: Mandal/Azevedo

AYES: 6 NOES: 0

Motion to approve Minor Tentative Map No. MI2006-5 based on the findings and special conditions in the staff report and corrections to findings No. 1 and special condition no. 8.

M/S: Azevedo/Mandal

AYES: 6 NOES: 0 4.
"S" ZONE APPROVAL
AMENDMENT NO.
SA2007-4 AND USE
PERMIT NO. UP2006-27

Tiffany Kunsman, Project Planner, presented a request to occupy a 1,233 square foot juice bar with 5-indoor/4-outdoor seating located at 547 E. Calaveras Blvd. Ms. Kunsman recommended approval based on the findings and special conditions noted in the staff report.

The Commission had no questions.

Chair Williams introduced the applicant.

Daniel Park, Public Manager for Jamba Juice, said that Jamba Juice has a mission to make healthy living delicious and to promote personal health and well-being. He felt that Jamba Juice would have a positive impact and hopes the City approves the project.

Chair Williams asked Mr. Park if Jamba Juice has received complaints for noise. Mr. Park said he is part of headquarters and he is not in the field. He hasn't heard of any complaints from any neighbors or residents and understands that Jamba Juice has a good relationship with the landlords. He said Jamba Juice is always happy to clean up the area. He said that the store closes at 9 p.m. and all the furniture is moved inside to prevent loitering late at night.

Commissioner Mandal asked where the nearest Jamba Juice is and Mr. Park said it is located at McCarthy Ranch.

Commissioner Mandal asked if the blenders are loud to disrupt the neighbors. Mr. Park said that the location does not have a back door and the noise can only drift through the front door. The blenders are the loudest piece of equipment and all blenders contain a stainless steel shroud, which mitigate the noise.

Chair Williams opened the public hearing.

Jeffrey Rong, 364 Sandhurst Dr., said he is really concerned about the noise and people loitering outside of Starbucks and asked if the Commission can do anything about this problem.

Chair Williams suggested a six-month review and/or to direct staff to send a letter to Starbucks and detail all of the issues the residents are having.

Motion to close the public hearing.

M/S: Azevedo/Ali-Santosa

AYES: 6 NOES: 0

Motion to approve "S" Zone Approval Amendment No. SA2007-4 and Use Permit No. UP2006-27 based on the findings and special conditions noted in the staff report, direct staff to get together with the residents and/or HOA and send a letter to Starbucks, and the following added condition:

• Six (6) months after the certificate of occupancy is issued, Planning Staff shall review Use Permit No. UP2006-27 and "S" zone approval amendment No. SA2007-4 in order to verify compliance with the special conditions of approval regarding possible loitering and/or noise violations after business hours. If there are any issues, the item will be agendaized for Planning Commission review.

M/S: Azevedo/Ali-Santosa

AYES: 5

NOES: 1 (Ciardella)

Commissioner Ciardella felt that a review is not necessary because the front door and

seating area faces onto the front parking lot.

X. ADJOURNMENT

The meeting was adjourned at 9:07 p.m. to the next regular meeting of March 14, 2007.

Respectfully Submitted,

Felix Reliford Principal Planner

Veronica Bejines Recording Secretary